UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KISHTA FINCH, individually and on behalf of all others similarly situated, Plaintiff, v. L'ORÉAL USA, INC. and SOFT SHEEN-CARSON, LLC, an Iowa corporation, Defendants.	Case No. **JURY TRIAL DEMANDED**

Plaintiff KISHTA FINCH, individually and on behalf of all others similarly situated, by and though counsel, brings this class action against Defendants L'ORÉAL USA, INC. and SOFT SHEEN-CARSON, LLC and alleges as follows:

I. INTRODUCTION

1. This is a class action lawsuit brought by Plaintiff on behalf of all similarly situated persons who purchased the Soft-Sheen-Carson Optimum Amla Legend No-Mix, No-Lye Relaxer manufactured, marketed, and sold by L'Oréal (the "Relaxer").

2. Defendant L'Oréal acquired Defendant Soft Sheen Products, Inc. in 1998 and continued to manufacture, market, and sell its products under the name SoftSheen-Carson.

3. In or about June 2016, Plaintiff purchased Defendants' Relaxer. Plaintiff applied the Relaxer in accordance with Defendants' instructions. The Relaxer caused significant damage to Plaintiff's hair and has caused portions of Plaintiff's hair to fall out.

4. Plaintiff suffered injuries as a result of Defendants' acts and omissions and seeks recovery for Defendants' violations of the Missouri Merchandising Practices Act, and for breach of implied warranty, negligence, strict product liability, fraud, and unjust enrichment.

II. PARTIES

5. Plaintiff Kishta Finch ("Plaintiff") is a citizen of the state of Missouri and currently resides in Kansas City, Missouri. In or about June 2016, Plaintiff Finch purchased the Relaxer from Sonya Beauty Supply in Grandview, Missouri. Plaintiff followed Defendants' instructions when applying the Relaxer to her hair. Almost immediately after application, Plaintiff's scalp became irritated. Shortly thereafter, Plaintiff's hair began to fall out in patches, and Plaintiff was forced to purchase hair extensions to cover the damage. A picture of Plaintiff's hair shortly after applying the Relaxer to her hair is included below:

6. Defendant L'Oréal USA, Inc. ("L'Oréal") is incorporated under the laws of the state of Delaware with its corporate headquarters at 10 Hudson Yards, New York, New York 10001. L'Oréal is a subsidiary of L'Oréal S.A., a French company.

7. Defendant Soft Sheen-Carson, LLC ("Soft Sheen-Carson"), is a limited liability company organized under the laws of the state of New York. Upon information and belief, Soft Sheen-Carson, LLC maintains its corporate headquarters in New York, New York.

III. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1332 of the Class Action Fairness Act of 2005 because: (i) there are 100 or more class members, (ii) there is an aggregate amount in controversy exceeding $5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity because at least one plaintiff and one defendant are citizens of different States.

9. This Court has personal jurisdiction over Defendants because they have conducted substantial business in this judicial district, and intentionally and purposefully placed the Relaxer into the stream of commerce within Missouri and throughout the United States.

10. Venue properly lies in this District pursuant 28 U.S.C. § 1391 because a substantial part of the events and omissions giving rise to this claim occurred this District. Venue is also proper because Defendants are headquartered in this District, and are subject to personal jurisdiction in this District.

IV. FACTUAL BACKGROUND

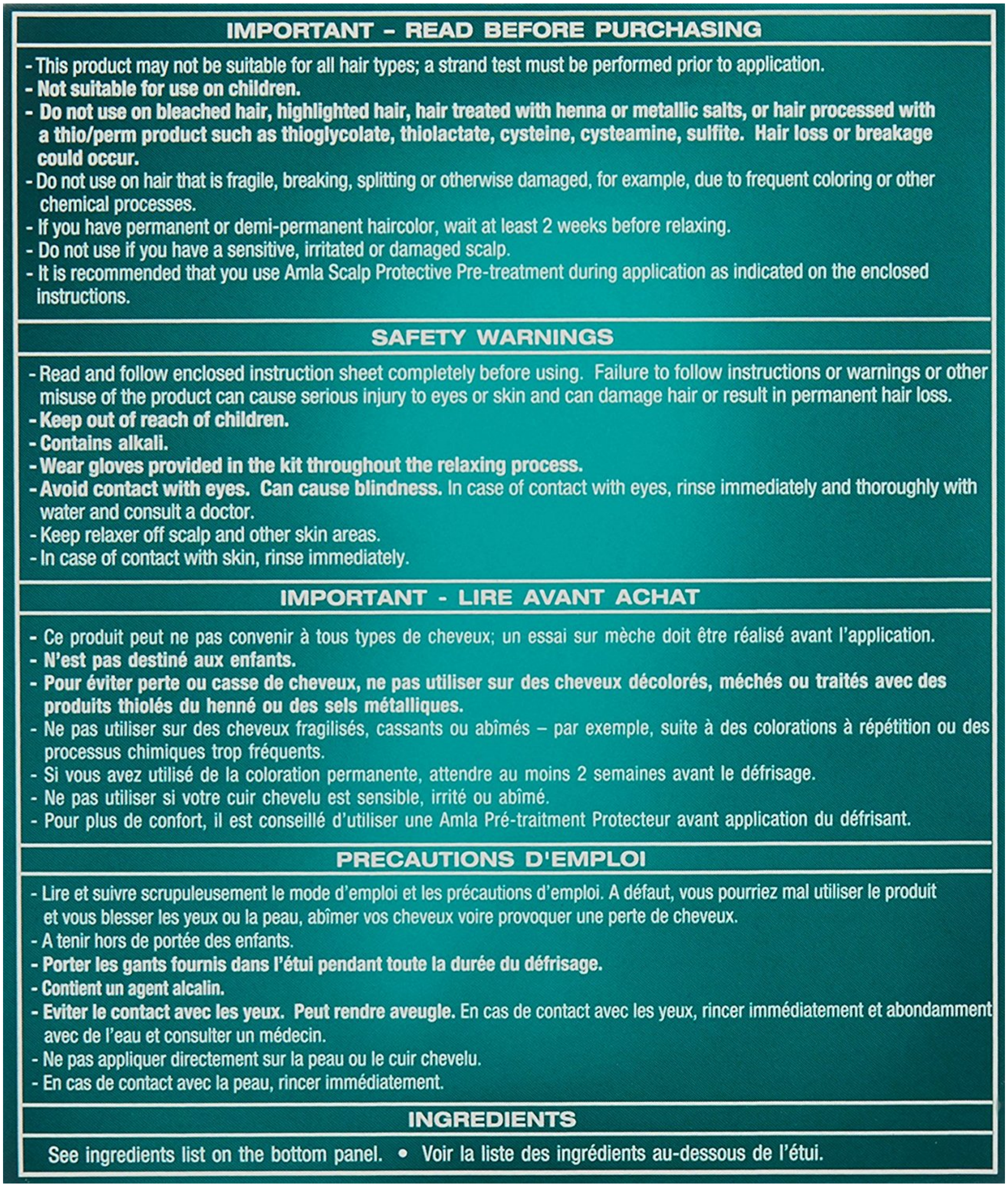
11. L'Oréal is one of the largest cosmetic companies in the United States and sells products for men and women throughout the United States.

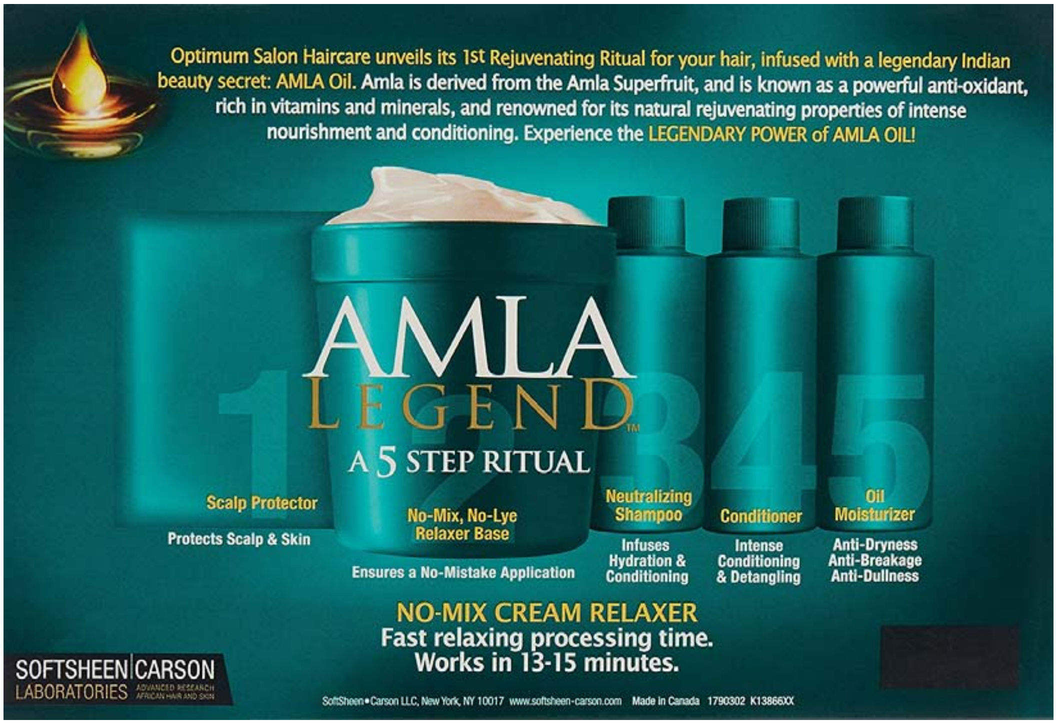
12. L'Oréal purchased Soft-Sheen Products, Inc. in 1998 and Carson Products in 1999 and merged the two companies into Soft Sheen-Carson in 2000. Both Soft-Sheen Products and Carson Products were leaders in manufacturing, marketing, and selling beauty products and cosmetics to African-American consumers. L'Oréal continued manufacturing,

marketing, and selling beauty products and cosmetics under the SoftSheen-Carson brand.

13. One such product manufactured, marketed, and sold by Defendants L'Oréal and Soft Sheen-Carson is the Relaxer, sold in the packaging shown below:

SOFTSHEEN·CARSON®
OPTIMUM
SALON HAIRCARE
AMLA
LEGEND™
REJUVENATING RITUAL
WITH AMLA OIL FROM INDIA
NO-MIX, NO-LYE
RELAXER
REGULAR — SUPER
MEDIUM TO COARSE HAIR — ONE APPLICATION
IMPORTANT – READ & FOLLOW THE SAFETY WARNINGS
"Refills to reveal visibly fuller, silkier hair"


IMPORTANT – READ BEFORE PURCHASING
- This product may not be suitable for all hair types; a strand test must be performed prior to application.
- Not suitable for use on children.
- Do not use on bleached hair, highlighted hair, hair treated with henna or metallic salts, or hair processed with a thio/perm product such as thioglycolate, thiolactate, cysteine, cysteamine, sulfite. Hair loss or breakage could occur.
- Do not use on hair that is fragile, breaking, splitting or otherwise damaged, for example, due to frequent coloring or other chemical processes.
- If you have permanent or demi-permanent haircolor, wait at least 2 weeks before relaxing.
- Do not use if you have a sensitive, irritated or damaged scalp.
- It is recommended that you use Amla Scalp Protective Pre-treatment during application as indicated on the enclosed instructions.
SAFETY WARNINGS
- Read and follow enclosed instruction sheet completely before using. Failure to follow instructions or warnings or other misuse of the product can cause serious injury to eyes or skin and can damage hair or result in permanent hair loss.
- Keep out of reach of children.
- Contains alkali.
- Wear gloves provided in the kit throughout the relaxing process.
- Avoid contact with eyes. Can cause blindness. In case of contact with eyes, rinse immediately and thoroughly with water and consult a doctor.
- Keep relaxer off scalp and other skin areas.
- In case of contact with skin, rinse immediately.
IMPORTANT - LIRE AVANT ACHAT
- Ce produit peut ne pas convenir à tous types de cheveux; un essai sur mèche doit être réalisé avant l'application.
- N'est pas destiné aux enfants.
- Pour éviter perte ou casse de cheveux, ne pas utiliser sur des cheveux décolorés, méchés ou traités avec des produits thiolés du henné ou des sels métalliques.
- Ne pas utiliser sur des cheveux fragilisés, cassants ou abîmés – par exemple, suite à des colorations à répétition ou des processus chimiques trop fréquents.
- Si vous avez utilisé de la coloration permanente, attendre au moins 2 semaines avant le défrisage.
- Ne pas utiliser si votre cuir chevelu est sensible, irrité ou abîmé.
- Pour plus de confort, il est conseillé d'utiliser une Amla Pré-traitment Protecteur avant application du défrisant.
PRECAUTIONS D'EMPLOI
- Lire et suivre scrupuleusement le mode d'emploi et les précautions d'emploi. A défaut, vous pourriez mal utiliser le produit et vous blesser les yeux ou la peau, abîmer vos cheveux voire provoquer une perte de cheveux.
- A tenir hors de portée des enfants.
- Porter les gants fournis dans l'étui pendant toute la durée du défrisage.
- Contient un agent alcalin.
- Eviter le contact avec les yeux. Peut rendre aveugle. En cas de contact avec les yeux, rincer immédiatement et abondamment avec de l'eau et consulter un médecin.
- Ne pas appliquer directement sur la peau ou le cuir chevelu.
- En cas de contact avec la peau, rincer immédiatement.
INGREDIENTS
See ingredients list on the bottom panel. • Voir la liste des ingrédients au-dessous de l'étui.


Optimum Salon Haircare unveils its 1st Rejuvenating Ritual for your hair, infused with a legendary Indian beauty secret: AMLA Oil. Amla is derived from the Amla Superfruit, and is known as a powerful anti-oxidant, rich in vitamins and minerals, and renowned for its natural rejuvenating properties of intense nourishment and conditioning. Experience the LEGENDARY POWER of AMLA OIL!
AMLA
LEGEND
A 5 STEP RITUAL
Scalp Protector
Protects Scalp & Skin
No-Mix, No-Lye Relaxer Base
Ensures a No-Mistake Application
Neutralizing Shampoo
Infuses Hydration & Conditioning
Conditioner
Intense Conditioning & Detangling
Oil Moisturizer
Anti-Dryness Anti-Breakage Anti-Dullness
NO-MIX CREAM RELAXER
Fast relaxing processing time.
Works in 13-15 minutes.
SOFTSHEEN CARSON LABORATORIES
SoftSheen•Carson LLC, New York, NY 10017 www.softsheen-carson.com Made in Canada 1790302 K13866XX

14. The advertising for the Relaxer touts that it is "enriched with purified Amla extract that rejuvenates hair and undoes 2 years of damage in 2 weeks."

15. The Relaxer is part of Defendants "Amla Legend" product line. Amla oil is a hair oil "derived from the Indian Amla superfruit known as the Gooseberry, a powerful antioxidant rich in vitamins, essential fatty acids and minerals." According to its packaging, the Relaxer contains Amla oil that supposedly has "natural rejuvenating properties of intense nourishment and conditioning."

16. Defendants further claim that "What makes Amla Oil so special and different from other oil extracts like Olive Oil or Argan Oil is that this super fruit is rich in vitamin C, proteins, minerals and anti-oxidants, which nourishes and revitalizes the scalp and hair fiber."

17. Defendants also advertise the Relaxer as formulated to "Ensure[] a No-Mistake Application."

18. The packaging states that the Relaxer "Refills to reveal visibly fuller, silkier

hair."

19. Defendants specifically state that the Relaxer is "No-Lye" because many relaxer products include lye, which is a harsh and abrasive chemical that can cause irritation to hair and skin.

20. Defendants fail to disclose that the Relaxer contains chemicals that are as dangerous as lye. The Relaxer's packaging states that it contains lithium hydroxide, which causes irritation to both hair and skin, but fails to disclose the dangers of lithium hydroxide.

21. Defendants failed to disclose to Plaintiff and consumers that the Relaxer causes hair damage, and even hair loss, to many consumers who apply it as directed.

V. CLASS ACTION ALLEGATIONS

22. Class Definition. Plaintiff seeks to bring the claims below as a class action, under Rule 23 of the Federal Rules of Civil Procedure, on behalf of herself and all others similarly situated. The proposed Class ("the Class") is defined as:

> All persons in the United States that purchased Soft-Sheen-Carson Optimum Amla Legend No-Mix, No-Lye Relaxer.

23. Plaintiff also seeks to represent a sub-class defined as all members of the Class who purchased the Relaxer in Missouri ("the Sub-class").

24. Plaintiff reserves the right to re-define the Class and Sub-class prior to class certification.

25. Numerosity. The number of persons who are members of the Class and Sub-class, as described above, is so numerous that joinder of all members in one action is impracticable. Upon information and belief, Defendants have sold hundreds of thousands of packages of the Relaxer throughout the United States, with thousands of those packages of the Relaxer sold in Missouri.

26. Commonality. All actions and omissions by the Defendants at issue here are similarly common. A determination that Defendants deceptively marketed and sold the Relaxer will apply to all members of the Class. Other questions common to the Class include whether Defendants violated any applicable Missouri laws and pursued the course of conduct complained of here, and the extent of the appropriate measure of injunctive and declaratory relief, damages, and restitution.

27. Predominance. Questions of law and fact that are common to the Class predominate over individual questions because the Defendants' actions complained of herein are generally applicable to the entire Class. These legal and factual questions include, but are not limited to:

a. Whether Defendants violated the Missouri Merchandising Practices Act;

b. Whether Defendants breached the implied warranty of merchantability;

c. Whether Defendants were negligent;

d. Whether Defendants fraudulently or deceptively marketed the Relaxer to Plaintiff and members of the Class;

e. Whether Defendants have been unjustly enriched by the benefits conferred upon them by Plaintiff and the Class; and,

f. Whether Plaintiff and the Class are entitled to damages and other forms of relief, and if so, to what extent.

28. Typicality. Plaintiff's claims are typical of the members of the Class. Plaintiff sustained damages as a result of her purchase and use of the Relaxer, as did each member of the Class.

29. Adequacy of Representation. Plaintiff will fully and adequately represent and protect the interests of the Class because of the common injuries and interests of the members of the Class and the singular conduct of Defendants that is or was applicable to all members of

the Class. Plaintiff has retained counsel who are competent and experienced in the prosecution of class action litigation. Plaintiff has no interests that are contrary to or in conflict with those of the Class she seeks to represent.

30. Superiority: A class action is superior to all other available methods for fair and efficient adjudication of this controversy. Plaintiff knows of no difficulty in managing this action that would preclude its maintenance as a class action. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and varying adjudications concerning the subject of this action, which adjudications could establish incompatible standards of conduct for Defendants under the laws alleged herein.

31. The claims of the Class may be certified under Rule 23(b)(1), (b)(2) and/or (b)(3). The members of the Class seek declaratory and injunctive relief but also seek sizeable monetary relief.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Missouri Merchandising Practices Act
Mo. Ann. Stat. § 407.020.1, *et seq.*
(on behalf of the Missouri Subclass)

32. Plaintiff and the Class incorporate by reference the preceding and subsequent paragraphs as if fully set forth herein.

33. The Missouri Merchandising Practices Act ("MMPA") prohibits the "use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce." Mo. Rev. Stat. § 407.020.1.

34. Defendants engaged in unfair practices and concealed material facts by

marketing and selling the Relaxer as a gentle, nourishing product without disclosing that it contains ingredients known to harm hair and skin and does in fact harm the hair and skin of many consumers who apply it as directed.

35. Defendants' conduct was prohibited under the MMPA, and caused Plaintiff and the Class to suffer harm. Plaintiff and the Class are now entitled to relief.

SECOND CLAIM FOR RELIEF
Breach of Implied Warranty of Merchantability
(on behalf of the Class)

36. Plaintiff and the Class incorporate by reference the preceding and subsequent paragraphs as if fully set forth herein.

37. The Relaxer was not safe or fit for its ordinary purpose of hair conditioning and relaxing when it was purchased by Plaintiff.

38. Instead the Relaxer was unreasonably dangerous because it can and frequently does cause hair loss and irritation to the scalp and skin, including burns and blisters, even when applied as directed.

39. Plaintiff has provided notice to Defendants that the Relaxer was not fit for such purpose by filing this lawsuit.

40. Plaintiff and the Class would not have purchased the Relaxer had they known of the facts alleged herein, and thus suffered injuries as a result of Defendants' breach of the implied warranty of merchantability and are entitled to relief.

THIRD CLAIM FOR RELIEF
Negligence
(on behalf of the Class)

41. Plaintiff and the Class incorporate by reference the preceding and subsequent paragraphs as if fully set forth herein.

42. Defendants had a duty to exercise reasonable care in the formulation, testing,

manufacturing, distribution, marketing, labeling, packaging and sale of the Relaxer.

43. Defendants breached that duty and were negligent in their actions, misrepresentations, and omissions in numerous ways including, but not limited to:

a. Failure to use due care in the formulation, design, and development of the Relaxer;

b. Failure to conduct adequate post-market monitoring and surveillance of the Relaxer and analysis for adverse reports and effects;

c. Failure to include adequate label or other warnings of the risks associated with the Relaxer;

d. Failure to exercise due care when advertising and promoting the Relaxer; and

e. Negligently continuing to manufacture, market, distribute, and sell the Relaxer, after they knew or should have known of the risks of damage to hair and skin.

44. Defendants' breaches of its duty caused Plaintiff and the Class, who did not know the facts alleged herein and justifiably relied on the Relaxer's packaging and Defendant's marketing, to purchase the Relaxer despite its caustic properties.

45. Plaintiff and the Class would not have purchased the Relaxer had they known of the facts alleged herein, and thus suffered injuries as a result of Defendants' negligence and are entitled to relief.

FOURTH CLAIM FOR RELIEF
Strict Product Liability
(on behalf of the Class)

46. Plaintiff and the Class incorporate by reference the preceding and subsequent paragraphs as if fully set forth herein.

47. Defendants are responsible for the design, formulation, testing, manufacturing, distribution, marketing, labeling, packaging and sale of the Relaxer.

48. As set forth above, the Relaxer possessed a defect in its design, formulation, or manufacturing in that the Relaxer can and frequently does cause hair loss and irritation to the scalp and skin, including burns and blisters, even when applied as directed.

49. The defect existed at the time the Relaxer left Defendants' possession and was introduced into the stream of commerce.

50. Plaintiff and members of the Class use the Relaxer in a manner that was reasonably foreseeable to Defendants.

51. Plaintiff and the Class would not have purchased the Relaxer had they known of the facts alleged herein, and thus suffered injuries as a result of purchasing and using Defendants' defective product and are entitled to relief.

FIFTH CLAIM FOR RELIEF
Fraud
(on behalf of the Class)

52. Plaintiff and the Class incorporate by reference the preceding and subsequent paragraphs as if fully set forth herein.

53. Defendants knowingly made material misrepresentations and omitted material facts about the Relaxer, as described herein.

54. Plaintiff and the Class reasonably and justifiably relied on those material misrepresentations and omissions of material fact when they purchased the Relaxer.

55. Plaintiff and the Class would not have purchased the Relaxer had they known of the facts alleged herein, and thus suffered injuries as a result of Defendants' fraud and are entitled to relief.

SIXTH CLAIM FOR RELIEF
Unjust Enrichment
(on behalf of the Class)

56. Plaintiff and the Class incorporate by reference the preceding and subsequent

paragraphs as if fully set forth herein.

57. Defendants have been unjustly enriched by retaining revenues derived when Plaintiff and members of the Class purchased the Relaxer.

58. Defendants' continued retention of benefits Plaintiff and the Class conferred would be inequitable under the circumstances described above and Plaintiff and the Class are entitled to relief.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of members of the Class, requests the following relief:

1. An order certifying this action as a class action under Rule 23 of the Federal Rules of Civil Procedure;

2. An order designating Plaintiff as representative of the Class and her undersigned counsel as Class Counsel;

3. Judgment in favor of Plaintiff and the Class, and against Defendants;

4. An award to Plaintiff and the Class of declaratory and injunctive relief;

5. An award to Plaintiff and the Class for damages equal to the amount of actual damages that they sustained;

6. An award to Plaintiff and the Class for attorneys' fees and costs, including interest, as allowed or required by law; and,

7. For such other and further relief, in law or equity, as this Court may deem appropriate and just.

VIII. DEMAND FOR JURY TRIAL

Plaintiff hereby requests trial by jury of all issues triable by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: November 23, 2016

Respectfully submitted,

By: */s/ Gregory B. Linkh*

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